

Order

Michigan Supreme Court
Lansing, Michigan

September 20, 2006

Clifford W. Taylor,
Chief Justice

131133

Michael F. Cavanagh
Elizabeth A. Weaver
Marilyn Kelly
Maura D. Corrigan
Robert P. Young, Jr.
Stephen J. Markman,
Justices

LAURA A. SAHR,
Plaintiff-Appellee,

v

SC: 131133
COA: 262952
WCAC: 02-000497

WAL-MART STORES, INC.,
Defendant-Appellant,
and

INSURANCE COMPANY OF THE STATE OF
PENNSYLVANIA,
Defendant.

On order of the Court, the application for leave to appeal the March 28, 2006 judgment of the Court of Appeals is considered and, pursuant to MCR 7.302(G)(1), in lieu of granting leave to appeal, we REVERSE the judgment of the Court of Appeals and REINSTATE the decision of the magistrate. The Court of Appeals erred by finding that the Workers' Compensation Appellate Commission (WCAC) had offered adequate reasons for rejecting the magistrate's reliance on and interpretation of the testimony of plaintiff's treating neurosurgeon. *Mudel v Great Atlantic & Pacific Tea Co*, 462 Mich 691, 703 (2000). The WCAC rejected all of the reasons provided by the magistrate for finding that plaintiff had failed to meet her burden of proving workplace causation for her back complaints because the treating doctor did not directly relate plaintiff's disability to her smoking. Because the magistrate did not base her decision on any such alleged opinion by the treating doctor, the WCAC did not provide an adequate reason for rejecting the magistrate's comprehensive findings as unsupported by competent, material and substantial evidence.

CAVANAGH, J., would deny leave to appeal.

KELLY, J., not participating.



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I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

September 20, 2006

Corbin R. Davis

Clerk